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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Case No. 3:16-cr-00051-BR**

**JOINT PROPOSAL REGARDING  
DISCOVERY MANAGEMENT  
AND PRODUCTION**

**AMMON BUNDY,  
JON RITZHEIMER,  
JOSEPH O'SHAUGHNESSY,  
RYAN PAYNE,  
RYAN BUNDY,  
BRIAN CAVALIER,  
SHAWNA COX,  
PETER SANTILLI,  
JASON PATRICK,  
DUANE LEO EHMER,  
DYLAN ANDERSON,  
SEAN ANDERSON,  
DAVID LEE FRY,  
JEFF WAYNE BANTA,  
SANDRA LYNN PFEIFER ANDERSON,  
and KENNETH MEDENBACH,**

**Defendants.**

The defendants, through FPD Lisa Hay, and the government, through AUSA Geoffrey Barrow, submit the following jointly proposed form of order regarding the process for the government to make the discovery available to all defendants, in accordance with the Court's Case Management Order of February 25, 2016 (Docket No. 210). The government anticipates the discovery will be produced in a number of different formats, and derived from different sources, including a significant amount of relevant material from social media. The discovery is estimated to exceed one terabyte of digital data. To ensure timely, complete, and efficient production of discovery to every defendant, the parties propose that the government do the following for each production and distribution of discovery:

- 1) Confer with the CJA Panel Office in advance of producing discovery, if possible, to alert the office to the nature and size of the expected production;
- 2) Send an email to each lead defense attorney on the case and the CJA Panel Office when the discovery is ready for release;
- 3) Send the discovery directly to all lead defense attorneys and to the CJA Panel Office; and
- 4) The parties further submit that they are continuing to work on a discovery management plan that may involve the use of a third-party vendor to receive, process, and host the discovery for all defendants. Such additional provisions are necessary because of the amount and type of data expected to be produced by the government during the discovery process.

#### **Protective Order**

The parties have conferred regarding a potential protective order but were unable to reach an agreement.

Defense Position. The defendants do not have a unified position on the need for, or terms of, any protective order. Under Rule 16, the government has the burden of demonstrating good cause for such an order, which has not been met. If and when the government seeks a protective order, it is expected that several defense attorneys will take the lead for the defense in opposing the order. The grounds for opposition may include: (1) blanket protective orders are disfavored and unnecessary in this case; (2) the public and press have an interest in the case and, if attorneys seek to share information as allowed under ethical rules, the government should not have the power to limit expression by defense attorneys through a protective order; and (3) existence of a protective order would threaten to disrupt attorney-client relations in these cases and more likely lead to decisions by defendants to proceed *pro se* in order to eliminate the perceived interference by attorneys in access to discovery. For each of these reasons, and as will be more fully argued by counsel, defense counsel oppose a blanket protective order in the case.

Government Position. The government believes that good cause exists under Rule 16(d)(1) for a protective order. On Monday, March 7, 2016, the government intends to file a motion for a protective order setting forth the legal and factual bases for its request.

Respectfully submitted on March 5, 2016.

/s/ Lisa Hay

Lisa Hay  
Federal Public Defender